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Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

## (Legislative Department)

*New Delhi, dated the 8th September, 2003/Bhadra 17, 1925 (Saka)*

# THE TAXATION LAWS (AMENDMENT) ORDINANCE, 2003

## No. 2 OF 2003

Promulgated by the President in the Fifty-fourth Year of the Republic of India.

An Ordinance further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Expenditure-tax Act, 1987.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

### CHAPTER I

### PRELIMINARY

Short title and commencement.

**1.** (*1*) This Ordinance may be called the Taxation Laws (Amendment) Ordinance, 2003.

(*2*) Save as otherwise provided in this Ordinance, it shall come into force at once.

### CHAPTER II

### AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amendment of section 10.

43 of 1961

**2.** In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in clause (15),—

(*A*) after sub-clause (*iiia*), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

"(*iiib*) interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on the 25th day of November, 1986;";

(*B*) in sub-clause (*iv*),—

(*a*) in item (*c*), the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

"*Explanation* 2.—For the removal of doubts, it is hereby declared that the usance interest payable outside India by an undertaking engaged in the business of ship-breaking in respect of purchase of a ship from outside India shall be deemed to be the interest payable on a debt incurred in a foreign country in respect of the purchase outside India;";

(*b*) in the *Explanation* 1 occurring below item (*i*), after clause (*d*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991, namely:—

"(*da*) the business of ship-breaking; or".

Insertion of new section 10BA.

**3.** After section 10B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

Special provisions in respect of export of certain articles or things.

'10BA. (*1*) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section:

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(*2*) This section applies to any undertaking which fulfils the following conditions, namely:—

(*a*) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(*b*) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*c*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of Explanation 1 and Explanation 2 to sub-section (*2*) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (*ii*) of sub-section (*2*) of that section;

(*d*) ninety per cent. or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(*e*) it employs twenty or more workers during the previous year in the process of manufacture or production.

(*3*) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

*Explanation.*—For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

*(4)* For the purposes of sub-section *(1)*, the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

*(5)* The deduction under sub-section *(1)* shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section *(2)* of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

*(6)* Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

*(7)* The provisions of sub-section *(8)* and sub-section *(10)* of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

*Explanation.*—For the purposes of this section,—

*(a)* "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999, and any rules made thereunder or any other corresponding law for the time being in force; 42 of 1999.

*(b)* "eligible articles or things" means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material.

*(c)* "export turnover" means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (*3*), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(*d*) "export out of India" shall not include any transcation by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station as defined in the Customs Act, 1962.'. 52 of 1962.

**4.** In section 115P of the Income-tax Act, for the words "one and one-fourth per cent.", the words " one per cent." shall be substituted. Amendment of section 115P.

Amendment of section 115S.

**5.** In section 115S of the Income-tax Act, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 132B.

**6.** In section 132B of the Income-tax Act, in sub-section (*4*), in clause (*a*), for the words "eight per cent.", the words "six per cent." shall be substituted.

Amendment of section 158BFA.

**7.** In section 158BFA of the Income-tax Act, in sub-section (*1*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 201.

**8.** In section 201 of the Income-tax Act, in sub-section (*1A*), for the words "fifteen per cent.", the words "twelve per cent." shall be substituted.

Amendment of section 206C.

**9.** In section 206C of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for the Table, the following Table shall be substituted, namely:—

"TABLE

| Sl. No. | Nature of goods | Percentage |
|---|---|---|
| (1) | (2) | (3) |
| (*i*) | Alcoholic Liquor for human consumption | One per cent. |
| (*ii*) | Tendu leaves | Five per cent. |
| (*iii*) | Timber obtained under a forest lease | Two and one-half per cent. |
| (*iv*) | Timber obtained by any mode other than under a forest lease | Two and one-half per cent. |
| (*v*) | Any other forest produce not being timber or tendu leaves | Two and one-half per cent. |
| (*vi*) | Scrap | One per cent. : "; |

(ii) for the proviso below the Table, the following proviso shall be substituted, namely:—

"Provided that every person, being a seller shall at the time, during the period beginning on the 1st day of June, 2003 and ending on the day immediately preceding the date on which the Taxation Laws (Amendment) Ordinance, 2003 comes into force, of debiting of the amount payable by the buyer to the account of the buyer or of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table as it stood immediately before the 1st day of June, 2003, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax in accordance with the provisions of this section as they stood immediately before the 1st day of June, 2003.";

(b) after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (*2*) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes.

(*1B*) The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Chief Commissioner or Commissioner one copy of the declaration referred to in sub-section (*1A*) on or before the seventh day of the month next following the month in which the declaration is furnished to him.";

(*c*) in sub-section (*3*), for the words "seven days", the words "the prescribed time" shall be substituted;

(*d*) in sub-section (*5*), for the words "ten days from the date of debit", the words "such period as may be prescribed from the time of debit" shall be substituted;

(*e*) in sub-section (*7*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;

(*f*) in the *Emplanation* occurring at the end, in clause (*a*), for sub-clauses (*i*) and (*ii*), the following sub-clauses shall be substituted, namely:—

"(*i*) a public sector company, the Central Government, a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State and a elub, or

(*ii*) a buyer in the retail sale of such goods purchased by him for personal consumption;".

Amendment of section 220.

**10.** In section 220 of the Income-tax Act, in sub-section (*2*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 230.

**11.** In section 230 of the Income-tax Act, in sub-seetion (*2*), after the words, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter 'or the first proviso to sub-seetion (*1A*)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003.

Amendment of section 234A.

**12.** In section 234A of the Income-tax Act, in sub-sections (*1*) and (*3*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 234B.

**13.** In section 234B of the Income-tax Act, in sub-sections (*1*) and (*3*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 234C.

**14.** In section 234C of the Income-tax Act, in sub-section (*1*),—

(*i*) in elause (*a*), in sub-clauses (*i*) and (*ii*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;

(*ii*) in clause (*b*), in sub-clauses (*i*) and (*ii*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 234D.

**15.** In section 234D of the Income-tax Act, in sub-seetion (*1*), for the words "two-third per cent.", the words "one-half per eent." shall be substituted.

Amendment of section 244A.

**16.** In section 244A of the Income-tax Act, in sub-section (*1*), in elauses (*a*) and (*b*), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

Amendment of section 272A.

**17.** In section 272A of the Income-tax Act, in sub-section (*2*), after clause (*i*), the following elause shall be inserted, namely:—

"(*j*) to deliver or cause to be delivered in due time a copy of the declaration referred to in sub-section (*1A*) of section 206C;".

Amendment of Second Schedule.

**18.** In the Second Schedule to the Income-tax Act, in rule 68A, in sub-rule (*3*), for the words "eight per eent.", the words "six per cent." shall be substituted.

## CHAPTER III

## AMENDMENTS TO THE WEALTH-TAX ACT, 1957

Amendment of section 17B.

27 of 1957.

**19.** In section 17B of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), in sub-seetions (*1*) and (*3*), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 31.

**20.** In section 31 of the Wealth-tax Act, in sub-section (*2*),—

(*a*) for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;

(*b*) in the second proviso, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 34A.

**21.** In section 34A of the Wealth-tax Act,—

(*a*) in sub-section (*3*) for the words "eight per cent.", the words "six per cent." shall be substituted;

(*b*) in sub-section (*4B*), in clause (*a*), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

## CHAPTER IV

### AMENDMENT TO THE EXPENDITURE-TAX ACT, 1987

Amendment of section 14 of Act 35 of 1987.

**22.** In section 14 of the Expenditure-tax Act, 1987, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

A.P.J. ABDUL KALAM,
*President.*

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SUBHASH C. JAIN,
*Secy. to the Govt. of India.*

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